1908-001
Lee County

Chancery Causes: Petition of B. F. Kincaid &c

Fugate, Richmond, Gibson, Bailey, Johnson, Fulkerson, Nash, Eldridge, Smith, Jenkins, Wheeler, Arnald, Bales, Dalton, Willis Frazier, Ball, Carr, Allen, Hill, Humphreys, Ayres, Ely, Wilson, Haskins, Combs, Robertson, Gravely, Yarbrough, Thompson, Kesterson, Boler, Barker

CA - Other/Unspecified

T- Elections
Government
Transportation

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

Humbly complaining your complainants C. D. Fugate J. S. B. Richmond J. C. Fugate, T. S. Snowden T. T. Gibson S. M. Bailey B. L. Johnson M. D. Fulkerson C. M. Nash A. P. Fulkerson J. C. Nash D. D. Eldridge W. P. Nash G. F. Smith Effie Jenkins J. M. Wheeler J. S. Arnold W. R. Bales, G. H. Dalton, J. F. Willis Lannie Frazier, J. L. Willis J. M. Ball B. F. Duncan J. D. Yokum C. R. Watson Geo. Snowden C. C. Bales, P. M. Carr, Lee Snowden T. S. Gibson Jr. W. P. Allen, Thos. Gibson Dr. S. H. Boston, R. B. Gibson, J. B. Price J. H. Humphreys Wm. Hoskins T. S. Gibson W. T. Ayers, J. J. Gibson J. A. Johnson S. S. Wilson C. E. Hoskins R. L. Fillz W. J. Gibson, M. O. Combs, R. E. Robinson Jack Ely and N. E. Benson qualified voters of the County of Lee residing in the Rose Hill Magisterial District of Lee County, Virginia, would respectfully represent and complain and show unto your honor that pursuant to an order rendered by the Circuit Court for Lee County, Virginia, at the September term thereof in the year 1908, an election was held in the said County on the 1st day of December, 1908, for the purpose of taking the sense of the qualified voters of Lee County on the question whether the Board of Supervisors should issue bonds for the purpose of macadamizing and otherwise permanently improving the public roads in the Rose Hill, White Shoals, Jonesville, and Yokum Station Magisterial Districts, the roads which were to be macadamized and otherwise permanently improved, the approximate location, length and widths being named and set out in the said order made at the said September term 1908. Your complainants would represent and show unto your honor that they and each of them are duly qualified voters of the said County of Lee, and that they are fifteen and more in number.

The object of this complaint which is filed pursuant to Section 5 of the Acts approved Februrary 25th, 1908, and reported in the Acts of General Assembly of 1908, at pages 71 to 75 inclusive, is to contest the return of the canvassing Board and to have the Circuit Court of Lee County to inquire into, determine and render judgement as to whether proper returns have been made by the Judges of the election at certain precincts, respecting the bond issue for the said Rose Hill

Magisterial District, which complaint as to the said returns at various precincts is hereinafter specifically set out.

Your complainants will now show your honor that, as to the said election the said canvassing Board certifies that there were cast in the said Rose Hill Magisterial District 276 votes, of which 217 were cast in favor of the said bond issue for the said District, and that 59 were cast against the said bond issue, and said canvassing Board returns in their certificate that in the County of Lee at large there was cast on the question of bond issue as to the Rose Hill Magisterial District 1193 votes of which 571 were cast for bond issue and 622 were cast against bond issue. Your complainants make no charge that the Board of election Commissioners in making their canvass of the returns made by the judges of election, made up a false or erroneous certificate, but they are informed that said Commissioners simply followed the returns of the judges of the election in the various precincts, and made up their certificates from said returns. But the object of this petition is to go behind the returns made by the Judges of the election at several of the voting precincts which are hereinafter set forth and to charge that the judges of the election at ~~some of~~ the said precincts, which are mentioned below, counted votes against the bond issue which were illegal and improper ballots, and should not have so been counted.

Your complainants would represent and show unto your honor that at the Bales Mill voting precinct 19 votes were counted against the bond issue which should not have been because your petitioners aver that upon the said 19 ballots ~~tickets~~ which were counted against bond issue, there only appeared the word "against", whereas the law provides that the voter must deposit a ticket on which is written or printed (if he would vote against bond issue) "against bond issue," and your petitioners here call for and demand an inspection of the said tickets as aforesaid which will bear them out in their contention in the said statement as aforesaid, and which ballots were otherwise informal, illegal & void.

Your petitioners would further represent and show unto your honor that in the Bales Forge voting precinct in the Rose Hill District as aforesaid, there was counted against bond issue 42 votes which had nothing written or printed upon the face of the ~~tickets~~ ballots, except the date of the election and the purpose for which it was being held, and were otherwise illegal and void, and the said judges of the said election made returns that the said ballots in the said Bales Mill and Bales Forge precincts were cast against bond issue, when they should have been thrown out as illegal ballots.

Your petitioners will further represent and show unto your honor that at the Sulphur Springs voting precinct the Judges of the election in the said precincts in their returns reported that 53 votes were cast against bond issue in the Rose Hill District, but your petitioners allege that said 53 votes were cast upon ballots which were illegal and void and should not have been counted, because your petitioners allege and charge that the said ballots so counted as against bond issue in the said Rose Hill District, only had written thereon the word "against" without saying against bond issue as is required by the Statute, and were otherwise illegal and void.

Your petitioners would further represent and show unto your honor that at the Stickleyville voting precincts the judges of the election in the said precints made returns that there were 50 votes cast against bond issue for the Rose Hill District, but your petitioners charge that 34 of the said ballots were blank ballots on which there was ~~xxxxxx~~ neither written or printed anything except the date and purpose of the election, and were otherwise illegal & void, and that said 34 ballots should not have been counted against the bond issue, but should have been cast out as illegal ballots. And your complainants charge that if the said Judges at the said precincts as aforesaid had made the proper return in their said precints, the returns would have shown a majority of 203 votes for bond issue in the Rose Hill District, and a majority of 95 votes in the County at large in favor of the issuance of bonds for

for the said Rose Hill Magisterial District. Your petitioners therefore allege that the returns of the said Judges as aforesaid in the various places aforesaid are improper, erroneous and false in the said respect as aforesaid, and allege that should a proper count have been ~~made~~ given and proper return made by the said judges as aforesaid, the Commissioners of election of the said county would have rendered a different certificate showing that the said bond issue had carried in the said Rose Hill District.

The prayer therefore of your petitioners is that your honor take cognizance of their cause and inquire into the said returns of the said judges as aforesaid that said ballots as aforesaid be examined and declared void and of none effect, and that the court render judgement on the merits of your petitioners cause according to the law in such cases made and provided, and that ~~[illegible], [illegible], [illegible], [

M.S. Thompson
B. F. Kincaid
C. R. Kesterson
C. C. Baker
Lee Stanley
W. P. Allen
S. H. Barker
J. B. Hill
Wm Hoskins
W. T. Ayers
J. A. Johnson
H. E. Hoskins
W. J. Gibson
A. Roberson
N. E. Edens

Jim Ball
J. D. Yarbrough
George Sowers
W. M. Cann
T. L. Gibson Jr
Chas Gibson Sen
R. B. Gibson
Jos Humphreys
J. L. Gibson
J. J. Gibson
L. L. Wilson
R. L. Feltz
J. G. Spradley
Jack Ely

Dec. D, Lewis

Virginia, Lee County, to-wit:

I, Wm Stanley, a Justice of the Peace in and for the County and state aforesaid, do hereby certify that B F Kincaid and J B B Richmond two of the above named complainants, this day made oath before me that the facts set forth in the foregoing complaint are true to the best of their knowledge and belief.

Given under my hand this the 22 day of December, 1908.

Wm Stanley J.P.

B. F. Kincaid et als

vs. Petition for Contest of Election on Road Bonds Issue in Rose Hill District

The Board of Supervisors of Lee County

Virginia Lee County to wit:-

I, H. C. P. Ewing Clerk of the Circuit Court for Lee County Virginia do hereby certify that this petition was duly filed in the Clerks Office of the Circuit Court for Lee County on the 23rd day of December 1908. Given under my hand this the 23rd day of December 1908.

H. C. P. Ewing,

Clerk.

Pennington Bros.
ATTORNEYS AT LAW
JONESVILLE AND PENNINGTON GAP, VA.